

General Assembly

Amendment

January Session, 2019

LCO No. 10896



Offered by:

SEN. LESSER, 9th Dist. SEN. KELLY, 21st Dist.

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Dist.

To: Subst. Senate Bill No. **906**

File No. 266

Cal. No. 169

"AN ACT CONCERNING THE INSURANCE DEPARTMENT'S RECOMMENDED CHANGES TO THE INSURANCE STATUTES AND INSURANCE PLANS PROCURED BY THE COMPTROLLER."

- 1 Strike everything after the enacting clause and substitute the
- 2 following in lieu thereof:
- 3 "Section 1. Section 38a-8 of the general statutes is repealed and the
- 4 following is substituted in lieu thereof (*Effective July 1, 2019*):
- 5 (a) The commissioner shall see that all laws respecting insurance
- 6 companies and health care centers are faithfully executed and shall
- 7 administer and enforce the provisions of this title. The commissioner
- 8 shall have all powers specifically granted, and all further powers that
- 9 are reasonable and necessary to enable the commissioner to protect the
- 10 public interest in accordance with the duties imposed by this title. The
- 11 commissioner shall pay to the Treasurer all the fees that the

commissioner receives. The commissioner may administer oaths in the discharge of the commissioner's duties.

14 (b) The commissioner shall recommend to the General Assembly 15 changes that, in the commissioner's opinion, should be made in the 16 laws relating to insurance.

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- (c) In addition to the specific regulations that the commissioner is required to adopt, the commissioner may adopt such further regulations, in accordance with the provisions of chapter 54, as are reasonable and necessary to implement the provisions of this title.
- 21 (d) The commissioner shall develop a program of periodic review to 22 ensure compliance by the Insurance Department with the minimum 23 standards established by the National Association of Insurance 24 Commissioners for effective financial surveillance and regulation of 25 insurance companies operating in this state. The commissioner shall 26 adopt regulations, in accordance with the provisions of chapter 54, 27 pertaining to the financial surveillance and solvency regulation of 28 insurance companies and health care centers as are reasonable and 29 necessary to obtain or maintain the accreditation of the Insurance 30 Department by the National Association of Insurance Commissioners. 31 The commissioner shall maintain as confidential any confidential 32 documents or information received from the National Association of 33 Insurance Commissioners, or the International Association of 34 Insurance Supervisors, or any documents or information received from 35 state or federal insurance, banking or securities regulators or similar 36 regulators in a foreign country that are confidential in such 37 jurisdictions. The commissioner may share any information, including 38 confidential information, with the National Association of Insurance 39 Commissioners, the International Association of Insurance 40 Supervisors, or state or federal insurance, banking or securities 41 regulators or similar regulators in a foreign country, provided the 42 commissioner determines that such entities agree to maintain the same 43 level of confidentiality in their jurisdictions as is available in this state. 44 At the expense of a domestic, alien or foreign insurer, the

commissioner may engage the services of attorneys, actuaries, accountants and other experts not otherwise part of the commissioner's staff as may be necessary to assist the commissioner in the financial analysis of the insurer, the review of the insurer's license applications, and the review of transactions within a holding company system involving an insurer domiciled in this state. No duties of a person employed by the Insurance Department on November 1, 2002, shall be performed by such attorney, actuary, accountant or expert.

- (e) The [Insurance Commissioner] <u>commissioner</u> shall establish a program to reduce costs and increase efficiency through the use of electronic methods to transmit documents, including policy form and rate filings, to and from insurers and the Insurance Department. The commissioner may sit as a member of the board of a consortium organized by or in association with the National Association of Insurance Commissioners for the purpose of coordinating a system for electronic rate and form filing among state insurance departments and insurers.
- (f) The commissioner shall maintain as confidential information obtained, collected or prepared in connection with examinations, inspections or investigations, and complaints from the public received by the Insurance Department, if such records are protected from disclosure under federal law or state statute or, in the opinion of the commissioner, such records would disclose, or would reasonably lead to the disclosure of: (1) Investigative information the disclosure of which would be prejudicial to such investigation, until such time as the investigation is concluded; or (2) personal, financial or medical information concerning a person who has filed a complaint or inquiry with the Insurance Department, without the written consent of the person or persons to whom the information pertains.
- (g) The commissioner may, in the commissioner's discretion, engage the services of such third-party actuaries, professionals and specialists that the commissioner deems necessary to assist the commissioner in reviewing any rate, form or similar filing submitted to the

78 commissioner pursuant to this title. The cost of such services shall be

- 79 borne by the person who submitted such rate, form or similar filing to
- 80 the commissioner.
- 81 Sec. 2. Section 38a-37 of the general statutes is repealed and the
- 82 following is substituted in lieu thereof (*Effective from passage*):
- Pursuant to terms and conditions of this compact, the state of
- 84 Connecticut seeks to join with other states and establish the Interstate
- 85 Insurance Product Regulation Compact, and thus become a member of
- 86 the Interstate Insurance Product Regulation Commission. The
- 87 Insurance Commissioner is hereby designated to serve as the
- 88 representative of this state to the commission.
- 89 ARTICLE I
- 90 PURPOSES
- The purposes of this compact are, through means of joint and
- 92 cooperative action among the compacting states:
- 93 1. To promote and protect the interest of consumers of individual
- 94 and group annuity, life insurance, disability income and long-term
- 95 care insurance products;
- 96 2. To develop uniform standards for insurance products covered
- 97 under the compact;
- 98 3. To establish a central clearinghouse to receive and provide
- 99 prompt review of insurance products covered under the compact and,
- in certain cases, advertisements related thereto, submitted by insurers
- authorized to do business in one or more compacting states;
- 4. To give appropriate regulatory approval to those product filings
- and advertisements satisfying the applicable uniform standard;
- 5. To improve coordination of regulatory resources and expertise
- between state insurance departments regarding the setting of uniform

standards and review of insurance products covered under the compact;

- 108 6. To create the Interstate Insurance Product Regulation
- 109 Commission; and
- 7. To perform these and such other related functions as may be
- consistent with the state regulation of the business of insurance.
- 112 ARTICLE II
- 113 DEFINITIONS
- 114 For purposes of this compact:
- 1. "Advertisement" means any material designed to create public
- interest in a product, or induce the public to purchase, increase,
- modify, reinstate, borrow on, surrender, replace or retain a policy, as
- more specifically defined in the rules and operating procedures of the
- 119 commission.
- 2. "Bylaws" mean those bylaws established by the commission for its
- governance, or for directing or controlling the commission's actions or
- 122 conduct.
- 123 3. "Compacting state" means any state which has enacted this
- 124 compact legislation and which has not withdrawn pursuant to Article
- 125 XIV, section 1 of this compact, or been terminated pursuant to Article
- 126 XIV, section 2 of this compact.
- 4. "Commission" means the Interstate Insurance Product Regulation
- 128 Commission established by this compact.
- 5. "Commissioner" means the chief insurance regulatory official of a
- 130 state including, but not limited to, commissioner, superintendent,
- 131 director or administrator.
- 6. "Domiciliary state" means the state in which an insurer is
- incorporated or organized; or, in the case of an alien insurer, its state of

- 134 entry.
- 7. "Insurer" means any entity licensed by a state to issue contracts of
- insurance for any of the lines of insurance covered by this compact.
- 8. "Member" means the person chosen by a compacting state as its
- representative to the commission, or the member's designee.
- 9. "Non-compacting state" means any state which is not at the time a
- 140 compacting state.
- 141 10. "Operating procedures" mean procedures promulgated by the
- 142 commission implementing a rule, uniform standard or a provision of
- this compact.
- 11. "Product" means the form of a policy or contract, including any
- application, endorsement, or related form which is attached to and
- made a part of the policy or contract, and any evidence of coverage or
- 147 certificate, for an individual or group annuity, life insurance, disability
- 148 income or long-term care insurance product that an insurer is
- 149 authorized to issue.
- 150 12. "Rule" means a statement of general or particular applicability
- and future effect promulgated by the commission, including a uniform
- 152 standard developed pursuant to Article VII of this compact, designed
- to implement, interpret, or prescribe law or policy or describing the
- organization, procedure, or practice requirements of the commission,
- which shall have the force and effect of law in the compacting states.
- 13. "State" means any state, district or territory of the United States
- 157 of America.
- 158 14. "Third-party filer" means an entity that submits a product filing
- to the commission on behalf of an Insurer.
- 160 15. "Uniform standard" means a standard adopted by the
- 161 commission for a product line, pursuant to Article VII of this compact,
- 162 and shall include all of the product requirements in aggregate;

provided, that each uniform standard shall be construed, whether

- 164 express or implied, to prohibit the use of any inconsistent, misleading
- or ambiguous provisions in a product and the form of the product
- 166 made available to the public shall not be unfair, inequitable or against
- public policy as determined by the commission.
- 168 ARTICLE III
- 169 ESTABLISHMENT OF THE COMMISSION AND VENUE
- 1. The compacting states hereby create and establish a joint public
- 171 agency known as the Interstate Insurance Product Regulation
- 172 Commission. Pursuant to Article IV of this compact, the commission
- 173 will have the power to develop uniform standards for product lines,
- 174 receive and provide prompt review of products filed therewith, and
- 175 give approval to those product filings satisfying applicable uniform
- standards; provided, it is not intended for the commission to be the
- 177 exclusive entity for receipt and review of insurance product filings.
- 178 Nothing herein shall prohibit any insurer from filing its product in any
- 179 state wherein the insurer is licensed to conduct the business of
- insurance; and any such filing shall be subject to the laws of the state
- where filed.
- 182 2. The Interstate Insurance Product Regulation Commission is a
- 183 body corporate and politic, and an instrumentality of the compacting
- 184 states.
- 185 3. The commission is solely responsible for its liabilities except as
- otherwise specifically provided in this compact.
- 187 4. Venue is proper and judicial proceedings by or against the
- 188 commission shall be brought solely and exclusively in a court of
- 189 competent jurisdiction where the principal office of the commission is
- 190 located.
- 191 ARTICLE IV
- 192 POWERS OF THE COMMISSION

193 The commission shall have the following powers:

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1. To promulgate rules, pursuant to Article VII of this compact, which shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

2. To exercise its rulemaking authority and establish reasonable uniform standards for products covered under the compact, and advertisement related thereto, which shall have the force and effect of law and shall be binding in the compacting states, but only for those products filed with the commission, provided, that a compacting state shall have the right to opt out of such uniform standard pursuant to Article VII of this compact, to the extent and in the manner provided in this compact, and, provided further, that any uniform standard established by the commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The commission shall consider whether any subsequent amendments to the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners require amending of the uniform standards established by the commission for long-term care insurance products;

3. To receive and review in an expeditious manner products filed with the commission, and rate filings for disability income and long-term care insurance products, and give approval of those products and rate filings that satisfy the applicable uniform standard, where such approval shall have the force and effect of law and be binding on the compacting states to the extent and in the manner provided in the compact;

225 4. To receive and review in an expeditious manner advertisement 226 relating to long-term care insurance products for which uniform 227 standards have been adopted by the commission, and give approval to 228 all advertisement that satisfies the applicable uniform standard. For 229 any product covered under this compact, other than long-term care 230 insurance products, the commission shall have the authority to require 231 an insurer to submit all or any part of its advertisement with respect to 232 that product for review or approval prior to use, if the commission 233 determines that the nature of the product is such that an advertisement 234 of the product could have the capacity or tendency to mislead the 235 public. The actions of the commission as provided in this section shall 236 have the force and effect of law and shall be binding in the compacting 237 states to the extent and in the manner provided in the compact;

- 5. To exercise its rulemaking authority and designate products and advertisement that may be subject to a self-certification process without the need for prior approval by the commission;
- 6. To promulgate operating procedures, pursuant to Article VII of this compact, which shall be binding in the compacting states to the extent and in the manner provided in this compact;
- 7. To bring and prosecute legal proceedings or actions in its name as the commission; provided, that the standing of any state insurance department to sue or be sued under applicable law shall not be affected;
- 8. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;
- 9. To establish and maintain offices;
- 251 10. To purchase and maintain insurance and bonds;
- 252 11. To borrow, accept or contract for services of personnel, 253 including, but not limited to, employees of a compacting state;
- 254 12. To hire employees, professionals or specialists, and elect or

appoint officers, and to fix their compensation, define their duties and

- 256 give them appropriate authority to carry out the purposes of the
- 257 compact, and determine their qualifications; and to establish the
- 258 commission's personnel policies and programs relating to, among
- 259 other things, conflicts of interest, rates of compensation and
- 260 qualifications of personnel;
- 261 13. To accept any and all appropriate donations and grants of
- 262 money, equipment, supplies, materials and services, and to receive,
- 263 utilize and dispose of the same; provided that at all times the
- 264 commission shall strive to avoid any appearance of impropriety;
- 265 14. To lease, purchase, accept appropriate gifts or donations of, or
- otherwise to own, hold, improve or use, any property, real, personal or
- 267 mixed; provided that at all times the commission shall strive to avoid
- any appearance of impropriety;
- 269 15. To sell, convey, mortgage, pledge, lease, exchange, abandon or
- otherwise dispose of any property, real, personal or mixed;
- 271 16. To remit filing fees to compacting states as may be set forth in
- the bylaws, rules or operating procedures;
- 273 17. To enforce compliance by compacting states with rules, uniform
- standards, operating procedures and bylaws;
- 275 18. To provide for dispute resolution among compacting states;
- 276 19. To advise compacting states on issues relating to insurers
- 277 domiciled or doing business in non-compacting jurisdictions,
- 278 consistent with the purposes of this compact;
- 279 20. To provide advice and training to those personnel in state
- 280 insurance departments responsible for product review, and to be a
- 281 resource for state insurance departments;
- 282 21. To establish a budget and make expenditures;

- 283 22. To borrow money;
- 284 23. To appoint committees, including advisory committees
- 285 comprising members, state insurance regulators, state legislators or
- 286 their representatives, insurance industry and consumer
- 287 representatives, and such other interested persons as may be
- 288 designated in the bylaws;
- 24. To provide and receive information from, and to cooperate with
- 290 law enforcement agencies;
- 291 25. To adopt and use a corporate seal; and
- 292 26. To perform such other functions as may be necessary or
- appropriate to achieve the purposes of this compact consistent with the
- state regulation of the business of insurance.
- 295 ARTICLE V
- 296 ORGANIZATION OF THE COMMISSION
- 297 Section 1. Membership, Voting and Bylaws
- a. Each compacting state shall have and be limited to one member.
- 299 Each member shall be qualified to serve in that capacity pursuant to
- 300 applicable law of the compacting state. Any member may be removed
- or suspended from office as provided by the law of the state from
- 302 which he or she shall be appointed. Any vacancy occurring in the
- 303 commission shall be filled in accordance with the laws of the
- 304 compacting state wherein the vacancy exists. Nothing herein shall be
- 305 construed to affect the manner in which a compacting state determines
- the election or appointment and qualification of its own commissioner.
- b. Each member shall be entitled to one vote and shall have an
- 308 opportunity to participate in the governance of the commission in
- 309 accordance with the bylaws. Notwithstanding any provision herein to
- 310 the contrary, no action of the commission with respect to the
- 311 promulgation of a uniform standard shall be effective unless two-

- 312 thirds of the members vote in favor thereof.
- c. The commission shall, by a majority of the members, prescribe
- 314 bylaws to govern its conduct as may be necessary or appropriate to
- 315 carry out the purposes, and exercise the powers, of the compact,
- 316 including, but not limited to:
- 317 (i) Establishing the fiscal year of the commission;
- 318 (ii) Providing reasonable procedures for appointing and electing 319 members, as well as holding meetings, of the management committee;
- 320 (iii) Providing reasonable standards and procedures: (I) For the
- 321 establishment and meetings of other committees, and (II) governing
- 322 any general or specific delegation of any authority or function of the
- 323 commission;
- 324 (iv) Providing reasonable procedures for calling and conducting
- meetings of the commission that consists of a majority of commission
- 326 members, ensuring reasonable advance notice of each such meeting
- and providing for the right of citizens to attend each such meeting
- with enumerated exceptions designed to protect the public's interest,
- 329 the privacy of individuals, and insurers' proprietary information,
- including trade secrets. The commission may meet in camera only after
- a majority of the entire membership votes to close a meeting in toto or
- in part. As soon as practicable, the commission must make public (I) a
- 333 copy of the vote to close the meeting revealing the vote of each
- member with no proxy votes allowed, and (II) votes taken during such
- 335 meeting;
- 336 (v) Establishing the titles, duties and authority and reasonable
- procedures for the election of the officers of the commission;
- 338 (vi) Providing reasonable standards and procedures for the
- 339 establishment of the personnel policies and programs of the
- 340 commission. Notwithstanding any civil service or other similar laws of
- 341 any compacting state, the bylaws shall exclusively govern the

342 personnel policies and programs of the commission;

- (vii) Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and
- (viii) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and/or reserving of all of its debts and obligations.
- d. The commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compacting states.
- 352 Section 2. Management Committee, Officers and Personnel
- a. A management committee comprising no more than fourteen members shall be established as follows:
- 355 (i) One member from each of the six compacting states with the 356 largest premium volume for individual and group annuities, life, 357 disability income and long-term care insurance products, determined 358 from the records of the National Association of Insurance 359 Commissioners for the prior year;
 - (ii) Four members from those compacting states with at least two per cent of the market based on the premium volume described above, other than the six compacting states with the largest premium volume, selected on a rotating basis as provided in the bylaws; and
 - (iii) Four members from those compacting states with less than two per cent of the market, based on the premium volume described above, with one selected from each of the four zone regions of the National Association of Insurance Commissioners as provided in the bylaws.
- b. The management committee shall have such authority and duties as may be set forth in the bylaws, including, but not limited to:

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370 (i) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;

- (ii) Establishing and overseeing an organizational structure within, and appropriate procedures for, the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a compacting state to opt out of a uniform standard; provided that a uniform standard shall not be submitted to the compacting states for adoption unless approved by two-thirds of the members of the management committee;
- 381 (iii) Overseeing the offices of the commission; and

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- (iv) Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the commission.
- The commission shall elect annually officers from the management committee, with each having such authority and duties, as may be specified in the bylaws.
 - d. The management committee may, subject to the approval of the commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the commission may deem appropriate. The executive director shall serve as secretary to the commission, but shall not be a member of the commission. The executive director shall hire and supervise such other staff as may be authorized by the commission.

395 Section 3. Legislative and Advisory Committees

a. A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the commission, including the management committee; provided that the manner of selection and term of any

400 legislative committee member shall be as set forth in the bylaws. Prior 401

- to the adoption by the commission of any uniform standard, revision
- 402 to the bylaws, annual budget or other significant matter as may be
- 403 provided in the bylaws, the management committee shall consult with
- 404 and report to the legislative committee.
- 405 b. The commission shall establish two advisory committees, one of 406 which shall comprise consumer representatives independent of the 407 insurance industry, and the other comprising insurance industry
- 408 representatives.
- 409 c. The commission may establish additional advisory committees as
- 410 its bylaws may provide for the carrying out of its functions.
- 411 Section 4. Corporate Records of the Commission
- 412 The commission shall maintain its corporate books and records in
- 413 accordance with the bylaws.
- 414 Section 5. Qualified Immunity, Defense and Indemnification
- 415 a. The members, officers, executive director, employees and
- 416 representatives of the commission shall be immune from suit and
- 417 liability, either personally or in their official capacity, for any claim for
- 418 damage to or loss of property or personal injury or other civil liability
- 419 caused by or arising out of any actual or alleged act, error or omission
- 420 that occurred, or that the person against whom the claim is made had a
- 421 reasonable basis for believing occurred within the scope of commission
- 422 employment, duties or responsibilities; provided, that nothing in this
- 423 paragraph shall be construed to protect any such person from suit
- 424 and/or liability for any damage, loss, injury or liability caused by the
- 425 intentional or wilful and wanton misconduct of that person.
- 426 b. The commission shall defend any member, officer, executive
- 427 director, employee or representative of the commission in any civil
- 428 action seeking to impose liability arising out of any actual or alleged
- 429 act, error or omission that occurred within the scope of commission

employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided, that nothing herein shall be construed to prohibit that person from retaining counsel; and provided further, that the actual or

alleged act, error or omission did not result from that person's

- 436 intentional or wilful and wanton misconduct.
- 437 c. The commission shall indemnify and hold harmless any member, 438 officer, executive director, employee or representative of the 439 commission for the amount of any settlement or judgment obtained 440 against that person arising out of any actual or alleged act, error or 441 omission that occurred within the scope of commission employment, 442 duties or responsibilities, or that such person had a reasonable basis 443 for believing occurred within the scope of commission employment, 444 duties or responsibilities, provided, that the actual or alleged act, error 445 or omission did not result from the intentional or wilful and wanton 446 misconduct of that person.
- 447 ARTICLE VI

- 448 MEETINGS AND ACTS OF THE COMMISSION
- 1. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.
- 2. Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to
- 453 participate in the business and affairs of the commission. A member
- shall vote in person or by such other means as provided in the bylaws.
- The bylaws may provide for members' participation in meetings by
- 456 telephone or other means of communication.
- 3. The commission shall meet at least once during each calendar
- year. Additional meetings shall be held as set forth in the bylaws.
- 459 ARTICLE VII

460 RULES AND OPERATING PROCEDURES: RULEMAKING 461 FUNCTIONS OF THE COMMISSION AND OPTING OUT OF 462 UNIFORM STANDARDS

- 1. The commission shall promulgate reasonable rules, including uniform standards, and operating procedures in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect.
- 2. Rules and operating procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 as amended, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the commission shall give written notice to the relevant state legislative committees in each compacting state responsible for insurance issues of its intention to adopt the uniform standard. The commission in adopting a uniform standard shall consider fully all submitted materials and issue a concise explanation of its decision.
- 3. A uniform standard shall become effective ninety days after its promulgation by the commission or such later date as the commission may determine; provided, however, that a compacting state may opt out of a uniform standard as provided in this article. "Opt out" shall be defined as any action by a compacting state to decline to adopt or participate in a promulgated uniform standard. All other rules and operating procedures, and amendments thereto, shall become effective as of the date specified in each rule, operating procedure or amendment.
- 4. A compacting state may opt out of a uniform standard, either by legislation or regulation duly promulgated by the Insurance Department under the compacting state's administrative procedure act. If a compacting state elects to opt out of a uniform standard by

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- a. Give written notice to the commission no later than ten business days after the uniform standard is promulgated, or at the time the state becomes a compacting state; and
 - b. Find that the uniform standard does not provide reasonable protections to the citizens of the state, given the conditions in the state. The commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state which warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the state. The commissioner must consider and balance the following factors and find that the conditions in the state and needs of the citizens of the state outweigh: (i) The intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the products subject to this compact; and (ii) the presumption that a uniform standard adopted by the commission provides reasonable protections to consumers of the relevant product. Notwithstanding the foregoing, a compacting state may, at the time of its enactment of this compact, prospectively opt out of all uniform standards involving long-term care insurance products by expressly providing for such opt out in the enacted compact, and such an opt out shall not be treated as a material variance in the offer or acceptance of any state to participate in this compact. Such an opt out shall be effective at the time of enactment of this compact by the compacting state and shall apply to all existing uniform standards involving longterm care insurance products and those subsequently promulgated.
 - 5. If a compacting state elects to opt out of a uniform standard, the uniform standard shall remain applicable in the compacting state electing to opt out until such time the opt out legislation is enacted into law or the regulation opting out becomes effective. Once the opt out of a uniform standard by a compacting state becomes effective as provided under the laws of that state, the uniform standard shall have

no further force and effect in that state unless and until the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the state. If a compacting state opts out of a uniform standard after the uniform standard has been made effective in that state, the opt out shall have the same prospective effect as provided under Article XIV of this compact for withdrawals.

6. If a compacting state has formally initiated the process of opting out of a uniform standard by regulation, and while the regulatory opt out is pending, the compacting state may petition the commission, at least fifteen days before the effective date of the uniform standard, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the commission, the stay or extension thereof may postpone the effective date by up to ninety days, unless affirmatively extended by the commission; provided, a stay may not be permitted to remain in effect for more than one year unless the compacting state can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the compacting state from opting out. A stay may be terminated by the commission upon notice that the rulemaking process has been terminated.

7. Not later than thirty days after a rule or operating procedure is promulgated, any person may file a petition for judicial review of the rule or operating procedure; provided, that the filing of such a petition shall not stay or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule or operating procedure to be unlawful if the rule or operating procedure represents a reasonable exercise of the commission's authority.

557 ARTICLE VIII

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558 COMMISSION RECORDS AND ENFORCEMENT

1. The commission shall promulgate rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets. The commission may promulgate additional rules under which it may make available to federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure, and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

- 2. Except as to privileged records, data and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the duty to disclose any relevant records, data or information to the commission; provided, that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, that, except as otherwise expressly provided in this compact, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any commissioner.
- 3. The commission shall monitor compacting states for compliance with duly adopted bylaws, rules, including uniform standards, and operating procedures. The commission shall notify any non-complying compacting state in writing of its noncompliance with commission bylaws, rules or operating procedures. If a non-complying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default as set forth in Article XIV of this compact.
- 4. The commissioner of any state in which an insurer is authorized

to do business, or is conducting the business of insurance, shall continue to exercise the commissioner's authority to oversee the market regulation of the activities of the insurer in accordance with the provisions of the state's law. The commissioner's enforcement of compliance with the compact is governed by the following provisions:

a. With respect to the commissioner's market regulation of a product or advertisement that is approved or certified to the commission, the content of the product or advertisement shall not constitute a violation of the provisions, standards or requirements of the compact except upon a final order of the commission, issued at the request of a commissioner after prior notice to the insurer and an opportunity for hearing before the commission.

b. Before a commissioner may bring an action for violation of any provision, standard or requirement of the compact relating to the content of an advertisement not approved or certified to the commission, the commission, or an authorized commission officer or employee, must authorize the action. However, authorization pursuant to this paragraph does not require notice to the insurer, opportunity for hearing or disclosure of requests for authorization or records of the commission's action on such requests.

ARTICLE IX

611 DISPUTE RESOLUTION

The commission shall attempt, upon the request of a member, to resolve any disputes or other issues that are subject to this compact and which may arise between two or more compacting states, or between compacting states and non-compacting states, and the commission shall promulgate an operating procedure providing for resolution of such disputes.

618 ARTICLE X

619 PRODUCT FILING AND APPROVAL

1. Insurers and third-party filers seeking to have a product approved by the commission shall file the product with, and pay applicable filing fees to, the commission. Nothing in this compact shall be construed to restrict or otherwise prevent an insurer from filing its product with the insurance department in any state wherein the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the states where filed.

- 2. The commission shall establish appropriate filing and review processes and procedures pursuant to commission rules and operating procedures. Notwithstanding any provision herein to the contrary, the commission shall promulgate rules to establish conditions and procedures under which the commission will provide public access to product filing information. In establishing such rules, the commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a product filing or supporting information.
- 3. Any product approved by the commission may be sold or otherwise issued in those compacting states for which the insurer is legally authorized to do business.
- 640 ARTICLE XI

REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

1. Not later than thirty days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third-party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall promulgate rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in

- accordance with Article III, section 4 of this compact.
- 2. The commission shall have authority to monitor, review and reconsider products and advertisement subsequent to their filing or approval upon a finding that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in section 1 of this article.
- 659 ARTICLE XII
- 660 FINANCE

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- 661 1. The commission shall pay or provide for the payment of the 662 reasonable expenses of its establishment and organization. To fund the 663 cost of its initial operations, the commission may accept contributions 664 and other forms of funding from the National Association of Insurance 665 Commissioners, compacting states and other sources. Contributions 666 and other forms of funding from other sources shall be of such a 667 nature that the independence of the commission concerning the 668 performance of its duties shall not be compromised.
 - 2. The commission shall collect a filing fee from each insurer and third-party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.
- 3. The commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in Article VII of this compact.
- 4. The commission shall be exempt from all taxation in and by the compacting states.
- 5. The commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.

6. The commission shall keep complete and accurate accounts of all receipts, including grants and donations, disbursements of all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under its bylaws. The financial accounts and reports including the system of internal controls and procedures of the commission shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the governor and legislature of the compacting states, which shall include a report of the independent audit. The commission's internal accounts shall not be confidential and such materials may be shared with the commissioner of any compacting state upon request provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

- 7. No compacting state shall have any claim to or ownership of any property held by or vested in the commission or to any commission funds held pursuant to the provisions of this compact.
- 703 ARTICLE XIII

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- 704 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT
- 705 1. Any state is eligible to become a compacting state.
- 2. The compact shall become effective and binding upon legislative enactment of the compact into law by two compacting states; provided, the commission shall become effective for purposes of adopting uniform standards for, reviewing, and giving approval or disapproval of, products filed with the commission that satisfy applicable uniform standards only after twenty-six states are compacting states or, alternatively, by states representing greater than

713 forty per cent of the premium volume for life insurance, annuity,

- 714 disability income and long-term care insurance products, based on
- 715 records of the National Association of Insurance Commissioners for
- 716 the prior year. Thereafter, it shall become effective and binding as to
- any other compacting state upon enactment of the compact into law by
- 718 that state.
- 3. Amendments to the compact may be proposed by the commission
- for enactment by the compacting states. No amendment shall become
- 721 effective and binding upon the commission and the compacting states
- 722 unless and until all compacting states enact the amendment into law.
- 723 ARTICLE XIV
- 724 WITHDRAWAL, DEFAULT AND TERMINATION
- 725 Section 1. Withdrawal
- a. Once effective, the compact shall continue in force and remain
- 727 binding upon each and every compacting state; provided, that a
- 728 compacting state may withdraw from the compact ("withdrawing
- 729 state") by enacting a statute specifically repealing the statute which
- 730 enacted the compact into law.
- 731 b. The effective date of withdrawal is the effective date of the
- 732 repealing statute. However, the withdrawal shall not apply to any
- product filings approved or self-certified, or any advertisement of such
- products, on the date the repealing statute becomes effective, except by
- mutual agreement of the commission and the withdrawing state unless
- 736 the approval is rescinded by the withdrawing state as provided in
- 737 paragraph e. of this section.
- 738 c. The commissioner of the withdrawing state shall immediately
- 739 notify the management committee in writing upon the introduction of
- 740 legislation repealing this compact in the withdrawing state.
- d. The commission shall notify the other compacting states of the
- 742 introduction of such legislation within ten days after its receipt of

743 notice thereof.

e. The withdrawing state is responsible for all obligations, duties and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state. The commission's approval of products and advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the withdrawing state, unless formally rescinded by the withdrawing state in the same manner as provided by the laws of the withdrawing state for the prospective disapproval of products or advertisement previously approved under state law.

f. Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the compact.

Section 2. Default

a. If the commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the bylaws or duly promulgated rules or operating procedures, then, after notice and hearing as set forth in the bylaws, all rights, privileges and benefits conferred by this compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The grounds for default include, but are not limited to, failure of a compacting state to perform its obligations or responsibilities, and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission,

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775 the defaulting state shall be terminated from the compact and all

- 776 rights, privileges and benefits conferred by this compact shall be
- terminated from the effective date of termination.
- 778 b. Product approvals by the commission or product self-
- 779 certifications, or any advertisement in connection with such product,
- 780 that are in force on the effective date of termination shall remain in
- 781 force in the defaulting state in the same manner as if the defaulting
- state had withdrawn voluntarily pursuant to section 1 of this article.
- c. Reinstatement following termination of any compacting state
- 784 requires a reenactment of the compact.
- 785 Section 3. Dissolution of Compact
- a. The compact dissolves effective upon the date of the withdrawal
- or default of the compacting state which reduces membership in the
- 788 compact to one compacting state.
- b. Upon the dissolution of this compact, the compact becomes null
- and void and shall be of no further force or effect, and the business and
- 791 affairs of the commission shall be wound up and any surplus funds
- shall be distributed in accordance with the bylaws.
- 793 ARTICLE XV
- 794 SEVERABILITY AND CONSTRUCTION
- 795 1. The provisions of this compact shall be severable; and if any
- 796 phrase, clause, sentence or provision is deemed unenforceable, the
- 797 remaining provisions of the compact shall be enforceable.
- 798 2. The provisions of this compact shall be liberally construed to
- 799 effectuate its purposes.
- 800 ARTICLE XVI
- 801 BINDING EFFECT OF COMPACT AND OTHER LAWS

- 802 Section 1. Other Laws
- 803 a. Nothing herein prevents the enforcement of any other law of a 804 compacting state, except as provided in paragraph b. of this section.
- 805 b. For any product approved or certified to the commission, the 806 rules, uniform standards and any other requirements of the 807 commission shall constitute the exclusive provisions applicable to the 808 content, approval and certification of such products. For advertisement 809 that is subject to the commission's authority, any rule, uniform 810 standard or other requirement of the commission which governs the 811 content of the advertisement shall constitute the exclusive provision 812 that a commissioner may apply to the content of the advertisement. 813 Notwithstanding the foregoing, no action taken by the commission
- 814 shall abrogate or restrict:
- 815 (i) The access of any person to state courts;
- 816 (ii) Remedies available under state law related to breach of contract, 817 tort, or other laws not specifically directed to the content of the 818 product;
- 819 (iii) State law relating to the construction of insurance contracts; or
- 820 (iv) The authority of the attorney general of the state, including, but 821 not limited to, maintaining any actions or proceedings, as authorized 822 by law.
- 823 c. All insurance products filed with individual states shall be subject 824 to the laws of those states.
- 825 Section 2. Binding Effect of this Compact
- 826 a. All lawful actions of the commission, including all rules and 827 operating procedures promulgated by the commission, are binding 828 upon the compacting states.
- 829 b. All agreements between the commission and the compacting

states are binding in accordance with their terms.

c. Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

d. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that compacting state, and those obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which those obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

ARTICLE XVII

STATE OF CONNECTICUT OPT OUT

In accordance with the provisions of Article VII, section 4 of this compact, the state of Connecticut opts out of all existing and prospective uniform standards involving long-term care insurance products [and all existing uniform standards involving disability income insurance products] in order to preserve the state's statutory requirements governing these insurance products.

- Sec. 3. Subdivision (1) of subsection (d) of section 38a-156a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):
- (d) (1) Upon approval by the commissioner of the proposed plan of reorganization, the board of directors, the chairperson of the board of directors or the president of the reorganizing insurer shall call a members' meeting to present and hold a vote on the plan of reorganization. Such meeting shall be held not earlier than thirty days

after the date of the public hearing held under subsection (c) of this section. The plan shall be approved by an affirmative vote of two-thirds of the members of the reorganizing insurer voting.

Sec. 4. Section 38a-323a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

- (a) Each insurer that issues, renews, amends or endorses an automobile or homeowners insurance policy in this state on or after [October 1, 2017] <u>July 1, 2019</u>, shall include with the policy a conspicuous statement specifying that any individual may designate a third party to receive notice of cancellation or nonrenewal of the policy. The statement shall include a designation form_ε [and] <u>a</u> mailing address <u>and an electronic mail address</u> the individual may use to designate a third party. Such statement shall be in a form approved by the Insurance Commissioner.
- (b) No designation form shall be effective unless it contains a written acceptance by the third party designee to receive copies of notices of cancellation or nonrenewal from the insurer on behalf of the individual. The third party designation shall be effective not later than ten business days after the date the insurer receives the designation form and the acceptance of the third party. The third party may terminate the status as a third party designee by providing written notice to both the insurer and the insured individual. The individual may terminate the third party designation by providing written notice to the insurer and the third party designee. The insurer may require the individual and the third party to send the notices to the insurer by certified mail, return receipt requested, or, if agreed between the insurer and the individual or the insurer and the third party, by electronic means.
- (c) The insurer's transmission to the third party designee of a copy of any notice of cancellation or nonrenewal shall be in addition to the transmission of the original document to the insured individual. When a third party is so designated, all such notices and copies shall be

892 mailed in an envelope clearly marked on its face with, or, if agreed 893 between the insurer and the third party, delivered by electronic means 894 stating, the following: "IMPORTANT INSURANCE POLICY 895 INFORMATION: OPEN IMMEDIATELY". The copy of the notice of 896 cancellation or nonrenewal transmitted to the third party shall be 897 governed by the same law and policy provisions that govern the notice 898 being transmitted to the insured individual. The designation of a third 899 party shall not constitute acceptance of any liability on the part of the 900 third party or insurer for services provided to the insured individual.

- Sec. 5. Subsection (a) of section 38a-324 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July* 1, 2019):
- (a) After a policy of commercial risk insurance, other than workers' compensation insurance and automobile insurance issued under a residual market mechanism as described in section 38a-329, has been in effect for more than sixty days, or after the effective date of a renewal policy, no insurer may cancel any policy unless the cancellation is based on the occurrence, after the effective date of the policy or renewal, of one or more of the following conditions: (1) Nonpayment of premium; (2) conviction of a crime arising out of acts increasing the hazard insured against; (3) discovery of fraud or material misrepresentation by the insured in obtaining the policy or in perfecting any claim thereunder; (4) discovery of any wilful or reckless act or omission by the insured increasing the hazard insured against; (5) physical changes in the property which increase the hazard insured against; (6) a determination by the commissioner that continuation of the policy would violate or place the insurer in violation of the law; (7) a material increase in the hazard insured against; or (8) a substantial loss of reinsurance by the insurer affecting this particular line of insurance. If the basis for cancellation is nonpayment of premium, at least ten days' advance notice shall be given and the insured may continue the coverage and avoid the effect of the cancellation by payment in full at any time prior to the effective date of cancellation. If the basis for cancellation is conviction of a crime arising out of acts

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increasing the hazard insured against, discovery of fraud or material misrepresentation by the insured in obtaining the policy or in perfecting any claim thereunder, discovery of any wilful or reckless act or omission by the insured increasing the hazard insured against or a determination by the commissioner that continuation of the policy would violate or place the insurer in violation of the law, at least ten days' advance notice shall be given. In all other cases, at least sixty days' advance notice shall be given. Notwithstanding the provisions of this section, the advance notice period for cancellation of any professional liability policy, as defined in section 38a-393, shall be at least ninety days. No notice of cancellation shall be required if such policy is transferred from an insurer to an affiliate of such insurer for another policy with no interruption of coverage and contains the same terms, conditions and provisions, including policy limits, as the transferred policy, except that the insurer to which the policy is transferred shall not be prohibited from applying its rates and rating plans at the time of renewal. No notice of cancellation shall be effective unless it is sent, by registered or certified mail, [or by] mail evidenced by a United States Post Office certificate of mailing or, if agreed between the insurer and the named insured, by electronic means evidenced by a delivery receipt, or delivered by the insurer to the named insured by the required date.

- 948 Sec. 6. Subsection (a) of section 38a-724 of the general statutes is 949 repealed and the following is substituted in lieu thereof (*Effective July* 950 1, 2019):
- 951 (a) The use of an employment contract between a public adjuster 952 and the insured shall be mandatory.
 - (1) Any such contract signed on or after [October 1, 2013] <u>July 1, 2019</u>, shall contain a provision, prominently displayed on the first page of such contract in not less than twelve-point boldface type, specifying that the insured may cancel the contract, provided such insured notifies the public adjuster at such public adjuster's main office or branch office at the address shown in the contract, by certified mail,

return receipt requested, or, if agreed between the insured and the public adjuster, by electronic means with proof of a delivery receipt, posted or delivered not later than midnight of the fourth calendar day after the day on which the insured signs the contract, except that if the signing is on a Friday, Saturday or Sunday, the cancellation shall be posted not later than midnight of the Thursday immediately following, and thereafter the contract shall be void ab initio.

- 966 (2) Any such contract signed on or after [October 1, 2013] <u>July 1,</u> 967 <u>2019</u>, that does not display the provision as specified in subdivision (1) 968 of this subsection shall be void ab initio.
- Sec. 7. Subsection (a) of section 38a-771 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective* 971 October 1, 2019):
- 972 (a) Any person, firm, partnership, association or corporation 973 holding a license issued pursuant to sections 38a-702b, 38a-702j, 38a-974 703 to 38a-716, inclusive, 38a-731 to 38a-735, inclusive, 38a-769 to 38a-975 776, inclusive, 38a-786, 38a-790, 38a-792 and 38a-794 or holding a 976 license in the name of a trade name shall notify the Insurance 977 Commissioner, in writing, not later than thirty days after any: (1) 978 Change in business [or] address, residence address or electronic mail 979 address; (2) change in employer; (3) change in name; or (4) change in 980 licensed [members of a firm, partnership, association or officers of a 981 corporation] insurance producer responsible for ensuring compliance 982 by such person, firm, partnership, association or corporation with the 983 insurance laws, rules and regulations of this state, as stated in the 984 application for license filed in this state by such person, firm, 985 partnership, association or corporation.
- Sec. 8. Section 38a-193 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):
- (a) (1) Before issuing any certificate of authority to any health care center on or after July 1, 1990, the commissioner shall require that a health care center have: (A) An initial net worth of one million five

hundred thousand dollars, and (B) agree to thereafter maintain the minimum net worth required under subdivision (4) of this subsection.

- (2) No health care center shall be licensed to transact business in this state or remain so licensed unless, (A) its net worth bears a reasonable relationship to its liabilities based upon the type, volume and nature of business transacted, and (B) its risk-based capital related to its total adjusted capital is adequate for the type of business transacted. As used in this subsection, "total adjusted capital" means the sum of a health care center's net worth and any other item in the nature of capital as deemed appropriate by the commissioner; and "risk-based capital" means the net worth of the health care center adjusted to recognize the level of risk inherent in its business, including (i) risk with respect to the health care center's assets, (ii) the risk of adverse underwriting experience with respect to the health care center's liabilities and obligations, (iii) the credit risk with respect to the health care center's business, and (iv) all other business risks and such other relevant risks as the commissioner may determine.
- (3) (A) In determining net worth, no debt shall be considered fully subordinated unless the subordination clause is in a form acceptable to the commissioner. Any interest obligation relating to the repayment of any subordinated debt shall be similarly subordinated. (B) The interest expenses relating to the repayment of any fully subordinated debt shall not be considered uncovered expenditures. (C) Any debt incurred by a note meeting the requirements of this section, and otherwise acceptable to the commissioner, shall not be considered a liability and shall be recorded as equity.
- (4) Except as provided in subdivision (3) and subdivisions (5) to (7), inclusive, of this subsection, each health care center shall maintain a minimum net worth equal to the greater of: (A) One million dollars; or (B) two per cent of its annual premium revenues as reported on the most recent annual financial statement filed with the commissioner on the first one hundred fifty million dollars of premium revenues plus one per cent of annual premium revenues in excess of one hundred

1024 fifty million dollars. No health care center authorized by the 1025 commissioner to do business in this state, on July 1, 1990, shall be required to comply with the provisions of subparagraph (B) of this 1027 subdivision until January 1, 1995.

- 1028 (5) Each health care center that offers or proposes to offer out-of-1029 network benefits shall either:
- 1030 (A) Enter into an agreement with a duly licensed insurance 1031 company to provide coverage to subscribers and enrollees outside of 1032 the health care center's established network, subject to approval by the 1033 commissioner; or
 - (B) Implement an out-of-network benefit system to be operated by the health care center, subject to approval by the commissioner, provided the health care center establishes and maintains its net worth at an amount equal to the greater of (i) three million dollars, (ii) two per cent of its annual premium revenues as reported on the most recent annual financial statement filed with the commissioner on the first one hundred fifty million dollars of premium revenues plus one per cent of annual premium revenues in excess of one hundred fifty million dollars, or (iii) two months of its cost of uncovered expenditures. For purposes of this subsection, "annual premium revenues" does not include revenue earned as a result of an arrangement between a health care center and the federal Centers for Medicare and Medicaid Services, on a cost or risk basis, for services to a Medicare beneficiary, or revenue earned as a result of an arrangement between a health care center and a Medicaid state agency, for services to a Medicaid beneficiary. For the purposes of this subsection, the uncovered expenditures of the health care center for the requisite two-month period shall be calculated as follows:

$$(X + Y - Z)$$

$$UE = \underline{\hspace{1cm}}$$

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- 1053 Where:
- 1054 UE = Uncovered expenditures of the health care center for the 1055 requisite two-month period.
- 1056 X = Total year-to-date uncovered expenditures reported in the 1057 health care center's most recent statutory quarterly or annual 1058 statement.
- Y = Total year-to-date uncovered expenditures reported in the health care center's annual statement for the prior calendar year.
- 1061 Z = Total year-to-date uncovered expenditures reported in the 1062 health care center's statutory quarterly or annual statement for the 1063 current calendar quarter of the prior calendar year.
- (6) The total cost of the out-of-network benefits of a health care center shall not exceed ten per cent of the total cost of the health care center's claims and expenses on a quarterly basis without the prior approval of the commissioner. [and the effectuation of an uncovered expenditures insolvency deposit established with the commissioner pursuant to section 38a-193a.]
 - (7) Any health care center that provides out-of-network benefits pursuant to this subsection shall provide a quarterly report concurrent with filing of the required quarterly and annual financial statements which shall demonstrate compliance with the provisions of this subsection.
- 1075 (8) The commissioner may adopt regulations, in accordance with 1076 chapter 54, to implement the purposes of this subsection, including, 1077 but not limited to, provisions concerning: (A) The preparation and 1078 filing of reports by health care centers relating to risk-based capital 1079 levels and the calculation thereof; (B) the preparation and filing of

comprehensive financial plans when such capital levels are reduced below minimum threshold levels; (C) the confidentiality of such reports and plans; and (D) the regulatory corrective actions the commissioner may take in the event minimum risk-based capital levels are not maintained, or the health care center's financial plans filed with the commissioner are deficient, or the health care center fails to otherwise comply with the provisions of the regulations.

- (b) Every health care center shall, when determining liabilities, include an amount estimated in the aggregate to provide for any unearned premium and for the payment of all claims for health care expenditures which have been incurred, whether reported or unreported, which are unpaid and for which such organization is or may be liable, and to provide for the expense of adjustment or settlement of such claims. Such liabilities shall be calculated in accordance with those accounting procedures and practices prescribed by the National Association of Insurance Commissioners Accounting Practices and Procedures Manual, version effective January 1, 2001, and subsequent revisions and the National Association of Insurance Commissioners Annual Statement Instructions, subject to any deviations prescribed by the commissioner.
- (c) (1) Every contract between a health care center and a participating provider of health care services shall be in writing and shall contain the following provisions or variations approved by the commissioner:
- "(A) (Name of provider or facility) hereby agrees that in no event, including, but not limited to, nonpayment by (name of health care center), (name of health care center's) insolvency, or breach of this contract shall (name of provider or facility) bill, charge, collect a deposit from, seek compensation, remuneration, or reimbursement from, or have any recourse against a covered person or person acting on their behalf, other than (name of health care center), for services provided pursuant to this contract. This provision shall not prohibit collection of cost-sharing amounts, or costs for noncovered services,

which have not otherwise been paid by a primary or secondary carrier in accordance with regulatory standards for coordination of benefits, from covered persons in accordance with the terms of the covered person's health plan.

- (B) (Name of provider or facility).... agrees, in the event of (name of health care center's) insolvency, to continue to provide the services promised in this contract to covered persons of (name of health care center) for the duration of the period for which premiums on behalf of the covered person were paid to (name of health care center) or until the covered person's discharge from inpatient facilities, whichever time is greater.
- 1124 (C) Notwithstanding any other provision in this contract, nothing in 1125 this contract shall be construed to modify the rights and benefits 1126 contained in the covered person's health plan.
- (D) (Name of provider or facility).... may not bill the covered person for covered services, except for cost-sharing amounts, where (name of health care center) denies payment because the provider or facility has failed to comply with the terms or conditions of this contract.
- 1131 (E) (Name of provider or facility) further agrees (i) that the provisions of subparagraphs (A), (B), (C) and (D) of this subdivision 1132 1133 (or citations appropriate to the contract form) shall survive 1134 termination of this contract regardless of the cause giving rise to 1135 termination and shall be construed to be for the benefit of (name of 1136 health care center's) covered persons, and (ii) that this provision 1137 supersedes any oral or written contrary agreement now existing or 1138 hereafter entered into between (name of provider or facility) and 1139 covered persons or persons acting on their behalf.
 - (F) If (name of provider or facility) contracts with other providers or facilities who agree to provide covered services to covered persons of (name of health care center) with the expectation of receiving payment directly or indirectly from (name of health care center), such providers or facilities shall agree to abide by the provisions of

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subparagraphs (A), (B), (C), (D) and (E) of this subsection (or citations appropriate to the contract form)"

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- (2) In the event that the participating provider contract has not been reduced to writing as required by this subsection or that the contract fails to contain the provisions required by subdivision (1) of this subsection, the participating provider shall not collect or attempt to collect from the subscriber or enrollee sums owed by the health care center.
- 1153 (3) No participating provider, or agent, trustee or assignee thereof, 1154 may: (A) Maintain any action at law against a subscriber or enrollee to 1155 collect sums owed by the health care center; (B) request payment from 1156 a subscriber or enrollee for such sums; (C) request payment from a 1157 subscriber or enrollee for covered emergency services that are 1158 provided by an out-of-network provider; or (D) request payment from 1159 a subscriber or enrollee for a surprise bill, as defined in section 38a-1160 477aa. For purposes of this subdivision "request payment" includes, 1161 but is not limited to, submitting a bill for services not actually owed or 1162 submitting for such services an invoice or other communication 1163 detailing the cost of the services that is not clearly marked with the 1164 phrase "THIS IS NOT A BILL". The contract between a health care 1165 center and a participating provider shall inform the participating 1166 provider that pursuant to section 20-7f, it is an unfair trade practice in 1167 violation of chapter 735a for any health care provider to request 1168 payment from a subscriber or an enrollee, other than a coinsurance, 1169 copayment, deductible or other out-of-pocket expense, for covered 1170 medical or emergency services or facility fees, as defined in section 1171 19a-508c, or surprise bills, or to report to a credit reporting agency an 1172 enrollee's failure to pay a bill for such services when a health care 1173 center has primary responsibility for payment of such services, fees or 1174 bills.
 - [(d) The commissioner shall require that each health care center have a plan for handling insolvency which allows for continuation of benefits for the duration of the contract period for which premiums

have been paid and continuation of benefits to members who are confined to inpatient facilities on the date of insolvency until their discharge or expiration of benefits. In considering such a plan, the commissioner may approve one or more of the following: (1) Insurance to cover the expenses to be paid for continued benefits after an insolvency; (2) provisions in provider contracts that obligate the provider to provide services after the health care center's insolvency for the duration of the period for which premium payment has been made and until the enrollees' discharge from inpatient facilities; (3) insolvency reserves; (4) acceptable letters of credit; or (5) any other arrangements to assure that benefits are continued as specified above.]

- [(e)] (d) Every agreement to provide health care services between a provider and a health care center shall require the provider to provide at least sixty days' advance notice to the health care center to terminate the agreement.
- [(f) (1) Unless otherwise provided in this subsection, each health care center shall deposit with the commissioner or, at the discretion of the commissioner, with any organization or trustee acceptable to the commissioner through which a custodian or controlled account is utilized, cash, securities or any combination of cash or securities or other measures that are acceptable to the commissioner, which at all times shall have a value of not less than five hundred thousand dollars.
- (2) A health care center that is in operation on October 1, 2007, shall make a deposit equal to two hundred fifty thousand dollars. In the second year, the amount of the additional deposit for a health care center that is in operation on October 1, 2007, shall be equal to two hundred fifty thousand dollars, for a total of five hundred thousand dollars.
- 1207 (3) The deposit shall be an admitted asset of the health care center in the determination of net worth.
- 1209 (4) All income from deposits shall be an asset of the organization. A

1210 health care center that has made a securities deposit may withdraw such deposit or any part thereof after making a substitute deposit of 1212 cash, securities or any combination of cash or securities or other 1213 measures of equal amount and value. Any securities shall be approved 1214 by the commissioner before being deposited.

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- (5) The deposit shall be used to protect the interests of the health care center's enrollees and to assure continuation of health care services to enrollees of a health care center that is in rehabilitation or The conservation. commissioner may use the deposit administrative costs directly attributable to a receivership or liquidation. If the health care center is placed in rehabilitation or liquidation, the deposit shall be an asset subject to the provisions of the Insurers Rehabilitation and Liquidation Act.]
- 1223 Sec. 9. Subsection (a) of section 5-259 of the general statutes is repealed and the following is substituted in lieu thereof (Effective from 1224 1225 passage):
 - (a) The Comptroller, with the approval of the Attorney General and of the Insurance Commissioner, shall arrange and procure a group hospitalization and medical and surgical insurance plan or plans for (1) state employees, (2) members of the General Assembly who elect coverage under such plan or plans, (3) participants in an alternate retirement program who meet the service requirements of section 5-162 or subsection (a) of section 5-166, (4) anyone receiving benefits under section 5-144 or from any state-sponsored retirement system, except the teachers' retirement system and the municipal employees retirement system, (5) judges of probate and Probate Court employees, (6) the surviving spouse, and any dependent children of a state police officer, a member of an organized local police department, a firefighter or a constable who performs criminal law enforcement duties who dies before, on or after June 26, 2003, as the result of injuries received while acting within the scope of such officer's or firefighter's or constable's employment and not as the result of illness or natural causes, and whose surviving spouse and dependent children are not otherwise

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eligible for a group hospitalization and medical and surgical insurance plan. Coverage for a dependent child pursuant to this subdivision shall terminate no earlier than the [policy anniversary date on or after] end of the calendar year during whichever of the following occurs first, the date on which the child: Becomes covered under a group health plan through the dependent's own employment; or attains the age of twenty-six, (7) employees of the Capital Region Development Authority established by section 32-601, and (8) the surviving spouse and dependent children of any employee of a municipality who dies on or after October 1, 2000, as the result of injuries received while acting within the scope of such employee's employment and not as the result of illness or natural causes, and whose surviving spouse and dependent children are not otherwise eligible for a group hospitalization and medical and surgical insurance plan. For purposes of this subdivision, "employee" means any regular employee or elective officer receiving pay from a municipality, "municipality" means any town, city, borough, school district, taxing district, fire district, district department of health, probate district, housing authority, regional work force development board established under section 31-3k, flood commission or authority established by special act or regional council of governments. For purposes of subdivision (6) of this subsection, "firefighter" means any person who is regularly employed and paid by any municipality for the purpose of performing firefighting duties for a municipality on average of not less than thirtyfive hours per week. The minimum benefits to be provided by such plan or plans shall be substantially equal in value to the benefits that each such employee or member of the General Assembly could secure in such plan or plans on an individual basis on the preceding first day of July. The state shall pay for each such employee and each member of the General Assembly covered by such plan or plans the portion of the premium charged for such member's or employee's individual coverage and seventy per cent of the additional cost of the form of coverage and such amount shall be credited to the total premiums owed by such employee or member of the General Assembly for the form of such member's or employee's coverage under such plan or

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plans. On and after January 1, 1989, the state shall pay for anyone receiving benefits from any such state-sponsored retirement system one hundred per cent of the portion of the premium charged for such member's or employee's individual coverage and one hundred per cent of any additional cost for the form of coverage. The balance of any premiums payable by an individual employee or by a member of the General Assembly for the form of coverage shall be deducted from the payroll by the State Comptroller. The total premiums payable shall be remitted by the Comptroller to the insurance company or companies or nonprofit organization or organizations providing the coverage. The amount of the state's contribution per employee for a health maintenance organization option shall be equal, in terms of dollars and cents, to the largest amount of the contribution per employee paid for any other option that is available to all eligible state employees included in the health benefits plan, but shall not be required to exceed the amount of the health maintenance organization premium.

- Sec. 10. Subsection (a) of section 38a-503b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective* 1296 *January* 1, 2020):
 - (a) As used in this section, "carrier" means each insurer, health care center, hospital service corporation, medical service corporation or other entity delivering, issuing for delivery, renewing, amending or continuing any individual health insurance policy in this state providing coverage of the type specified in subdivisions (1), (2), (4), [(6),] (10), (11) and (12) of section 38a-469.
- Sec. 11. Subsection (a) of section 38a-530b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective* 1305 *January* 1, 2020):
 - (a) As used in this section, "carrier" means each insurer, health care center, hospital service corporation, medical service corporation or other entity delivering, issuing for delivery, renewing, amending or continuing any group health insurance policy in this state providing

coverage of the type specified in subdivisions (1), (2), (4), [(6),] (11) and

- 1311 (12) of section 38a-469.
- Sec. 12. Subsection (b) of section 38a-535 of the general statutes is
- 1313 repealed and the following is substituted in lieu thereof (Effective
- 1314 *January 1, 2020*):
- 1315 (b) Each group health insurance policy providing coverage of the
- 1316 type specified in subdivisions (1), (2), (4), [(6),] (11) and (12) of section
- 1317 38a-469 delivered, issued for delivery or renewed on or after October 1,
- 1318 1989, or continued as defined in section 38a-531, on or after October 1,
- 1319 1990, shall provide benefits for preventive pediatric care for any child
- 1320 covered by the policy or contract at approximately the following age
- intervals: Every two months from birth to six months of age, every
- three months from nine to eighteen months of age and annually from
- 1323 two through six years of age. Any such policy may provide that
- 1324 services rendered during a periodic review shall be covered to the
- extent that such services are provided by or under the supervision of a
- single physician during the course of one visit. On and after January 1,
- 1327 2009, each such policy shall also provide coverage for blood lead
- 1328 screening and risk assessments ordered by a primary care provider
- pursuant to section 19a-111g. Such benefits shall be subject to any
- 1330 policy provisions which apply to other services covered by such
- 1331 policy.
- Sec. 13. Section 7-464c of the general statutes is repealed and the
- following is substituted in lieu thereof (*Effective January 1, 2021*):
- 1334 (a) For the purposes of this section, "retirement plan" means any
- retirement plan created in accordance with the provisions of Section
- 1336 403(b) of the Internal Revenue Code of 1986, or any subsequent
- corresponding internal revenue code of the United States, as amended
- 1338 from time to time, that is not made available through the State
- 1339 Comptroller pursuant to subsection (c) of section 5-264.
- [(a)] (b) On or after January 1, [2019] 2021, any company that
- administers a retirement plan offered by a political subdivision of the

state to the employees of such political subdivision shall disclose to each participant in such retirement plan <u>and the State Comptroller</u>, in an electronic form and manner prescribed by the State Comptroller:

(1) The fee ratio and return, net of fees, for each investment under the retirement plan; [, and]

- (2) [the] The fees paid to any person who, for compensation, engages in the business of providing investment advice to participants in the retirement plan either directly or through publications or writings; and [. Such disclosures shall be made upon initial enrollment in the retirement plan and at least annually thereafter. For the purposes of this section, "retirement plan" means any retirement plan created in accordance with the provisions of Section 403(b) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, that is not made available through the State Comptroller pursuant to subsection (c) of section 5-264 of the general statutes.]
- (3) Any other information required to be disclosed pursuant to 29
 CFR 2550.404a-5, as amended from time to time, if such retirement
 plan is a participant-directed individual account plan, as such term is
 used in 29 CFR 2550.404a-5.
 - [(b)] (c) Any such company shall be deemed to comply with the requirements of subsection [(a)] (b) of this section if such company adheres to the disclosure requirements for plans governed by the Employee Retirement Income Security Act of 1974 set forth in Section 2550.404a-5 of the Code of Federal Regulations, as in effect on July 1, 2017, or as amended from time to time, provided any amended disclosure requirements are substantially similar to those in effect on July 1, 2017.
- (d) Each company that is subject to the disclosure requirements
 established in subsection (b) of this section shall make the disclosures
 required by said subsection upon initial enrollment in the retirement
 plan and at least annually thereafter.

(e) Not later than March 1, 2022, and annually thereafter, the State
Comptroller shall post, on the State Comptroller's Internet web site,
each disclosure that the State Comptroller received pursuant to
subsection (b) of this section on or before the January first immediately
preceding for the calendar year immediately preceding.

1379 Sec. 14. (*Effective from passage*) Sections 12, 14, 15 and 16 of public act 1380 18-158 shall take effect July 1, 2019.

Sec. 15. Section 38a-193a of the general statutes is repealed. (*Effective from passage*)

Sec. 16. Sections 13 and 17 of public act 18-158 are repealed. (*Effective from passage*)"

This act sha	all take effect as follows	and shall amend the following
sections:		
Section 1	July 1, 2019	38a-8
Sec. 2	from passage	38a-37
Sec. 3	from passage	38a-156a(d)(1)
Sec. 4	July 1, 2019	38a-323a
Sec. 5	July 1, 2019	38a-324(a)
Sec. 6	July 1, 2019	38a-724(a)
Sec. 7	October 1, 2019	38a-771(a)
Sec. 8	from passage	38a-193
Sec. 9	from passage	5-259(a)
Sec. 10	January 1, 2020	38a-503b(a)
Sec. 11	January 1, 2020	38a-530b(a)
Sec. 12	January 1, 2020	38a-535(b)
Sec. 13	January 1, 2021	7-464c
Sec. 14	from passage	New section
Sec. 15	from passage	Repealer section
Sec. 16	from passage	Repealer section